

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RAFAEL SANTIAGO,
Petitioner

vs.

LOUIS FOLINO, et al.,
Respondents

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CIVIL ACTION

NO. 12-4065

ORDER

AND NOW, this 16th day of December, 2013, upon careful and independent consideration of the petition for writ of *habeas corpus*, and after review of the thorough and well-reasoned Report and Recommendation of the Honorable Lynne A. Sitarski, United States Magistrate Judge, IT IS HEREBY ORDERED that:

1. The petitioner's objections are OVERRULED.¹
2. The Report and Recommendation is APPROVED AND ADOPTED.
3. The petition for writ of *habeas corpus* is DENIED.
4. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.

¹ After a *de novo* review, I find the petitioner's objections to be of no merit. Judge Sitarski correctly found that the petitioner's claim of ineffective assistance of counsel was properly exhausted in the state courts. Contrary to the petitioner's objection, the Superior Court of Pennsylvania disposed of this issue based on the United States Supreme Court's decision in Strickland v. Washington, 466 U.S. 668 (1984). See Commonwealth v. Santiago, 444 EDA 2010, *4 (Super. Ct. 2012). The court conducted the inquiry outlined in Strickland in determining that trial counsel was not ineffective. Id. Further, Judge Sitarski reviewed the challenged prosecutorial remarks, and indicated that the Superior Court had used the same standard used by federal courts in reviewing a prosecutor's allegedly improper remarks at trial in finding that the prosecutor had not engaged in misconduct. Judge Sitarski properly gave deference to the state court's adjudication of the petitioner's claim. Finally, there is no basis for the issuance of a certificate of appealability.